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16 Mar. 7646

Comments on Pending Legislation

Office of General Counsel

This bill authorizes the Secretaries of the military departments to pay counsel fees, court costs, bail, and other expenses incident to the representation before judicial tribunals and administrative agencies of any foreign nation of persons subject to the Uniform Code of Military Justice.

Currently it is not entirely clear whether civilian personnel and dependents are subject to the Uniform Code. There have been several cases on this question in the lower Federal courts, and the Smith-Kreuger Case is now up before the Supreme Court. Conversation with Mr. Monroe Leigh, Assistant General Counsel, Department of Defense, reveals his belief that the case will not be heard in the present term of court.

It is consequently possible that this legislation might pass, and that then the Supreme Court might hold that civilians and dependents are not subject to the Uniform Code.

It is, therefore, recommended that consideration be given to presenting an amendment to the legislation to include payment of these legal expenses of dependents and members of civilian components as well as uniformed personnel.

A suggested redraft is attached for your consideration.

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16 March 1956

Approved For Release 2003/03/06 : CIA-RDP58-00453R000300130155-8

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